

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sebastian Saavedra	Team: Squad #1	CCRB Case #: 201904936	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/07/2019 11:42 AM	Location of Incident: § 87(2)(b)	Precinct: 48	18 Mo. SOL 12/7/2020	EO SOL 7/24/2021	
Date/Time CV Reported Fri, 06/07/2019 12:13 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 06/07/2019 12:13 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Oliver Castillo	4106	946838	048 PCT
2. POM Jay Castillo	21255	959539	048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andy Rollins	10169	944948	048 PCT
2. POM Patrick King	03921	961864	048 PCT
3. POM Ariel Mallol	04008	960857	048 PCT
4. POM Nicolas Dancona	15641	957513	048 PCT
5. POM Heriberto Sifonte	16472	942541	048 PCT
6. POM Namel Holguin	03109	960674	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Oliver Castillo	Abuse: Sergeant Oliver Castillo entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
B.SGT Oliver Castillo	Abuse: Sergeant Oliver Castillo searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
C.POM Jay Castillo	Abuse: Police Officer Jay Castillo searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
D.SGT Oliver Castillo	Abuse: Sergeant Oliver Castillo failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

### Case Summary

On June 7, 2019, § 87(2)(b) filed this complaint with the CCRB via the online website.

On June 7, 2019, at approximately 11:42am, Sergeant Oliver Castillo of the 48<sup>th</sup> Precinct knocked on § 87(2)(b) door and asked to enter regarding a 911 call about a domestic dispute. Sgt. Castillo and several officers from the 48<sup>th</sup> Precinct entered and searched the apartment (**Allegations A and B: Abuse of Authority-** § 87(2)(g)). During this search, Police Officer Jay Castillo opened a drawer in § 87(2)(b) kitchen (**Allegation C: Abuse of Authority-** § 87(2)(g)). Sgt. Castillo did not provide § 87(2)(b) with a business card (**Allegation D: Abuse of Authority-** § 87(2)(g)).

Body-worn camera (BWC) footage was obtained for this incident and is included in the case file (Board Reviews 01, 02, 03, 04, 05, 06, 07, and 08).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Oliver Castillo entered § 87(2)(b) in the Bronx.**

**Allegation (B) Abuse of Authority: Sergeant Oliver Castillo searched § 87(2)(b) in the Bronx.**

**Allegation (C) Abuse of Authority: Police Officer Jay Castillo searched § 87(2)(b) in the Bronx.**

§ 87(2)(b) testified that officers knocked on his door several times, and he opened his door. Per § 87(2)(b) self-provided pedigree, he is a black male, 6'0, and 267 lbs. Several officers stood outside, including Sgt. Castillo, who told § 87(2)(b) that the officers were responding to a complaint that originated from § 87(2)(b) apartment about fighting happening there and placed his foot in the threshold of the apartment door. § 87(2)(b) told the officers that he was home along and everything was fine, said 15 times that officers could not enter his home, and began to close the door, but Sgt. Castillo's foot kept it open. Sgt. Castillo pushed the door open and several officers entered the apartment. The officers searched the apartment, rummaging through closets and looking in § 87(2)(b) bedroom. § 87(2)(b) then followed officers around and took photographs of their shields with his cell phone (Board Reviews 18-26). The officers left after approximately seven minutes without saying anything and did not leave any documentation for § 87(2)(b) (Board Review 10).

BWC footage from Sgt. Castillo shows Sgt. Castillo approach the door to § 87(2)(b) apartment. Sgt. Castillo and PO Castillo both knock on his door twice and Sgt. Castillo radios central, requesting that they try the call back. No response is heard. § 87(2)(b) answers the door with his shirt off and Sgt. Castillo asks him if he called the police. § 87(2)(b) replies that he did not, and says he is alone in the apartment. Sgt. Castillo tells § 87(2)(b) that he received a call to his apartment, and that the officers need to enter the apartment and check if anyone else is there. § 87(2)(b) tells the officers, several times, that he does not want them to enter. At approximately the 3:40 timestamp in the video player, Sgt. Castillo again tells him they need to enter the apartment, and § 87(2)(b) replies, "be prepared to be sued," opens his door fully, and steps aside. Officers then enter the apartment and walk through every room. At approximately 4:14, PO Castillo is seen opening one of § 87(2)(b) kitchen drawers. Officers then leave the apartment (Board Review 07).

BWC Footage from PO Castillo shows Sgt. Castillo open the refrigerator in the kitchen at approximately 3:50 (Board Review 04).

Sgt. Castillo testified that he received a radio run of an assault in progress being perpetrated by a black male against a female at § 87(2)(b) in the Bronx. Multiple calls had come in regarding this complaint, providing apartment numbers § 87(2)(b) and § 87(2)(b). The 911 dispatcher told Sgt. Castillo they attempted to clarify the location with the caller, but were unable to. Sgt. Castillo stated that for this reason, another unit responded to § 87(2)(b) while he and his officers responded to

§ 87(2)(b) PO Rollins and PO Castillo knocked on the door, and § 87(2)(b) opened it. § 87(2)(b) was agitated and sweating, despite the ambient temperature, which led him to believe § 87(2)(b) was hiding something. Sgt. Castillo further stated that his experience with domestic disputes made him prioritize the safety of any potential victims during this incident. Sgt. Castillo asked § 87(2)(b) if he called 911 and if there was anyone else in the apartment, both of which he denied. Sgt. Castillo told § 87(2)(b) that they received a 911 call to the apartment and would like to verify that no one was hurt inside. § 87(2)(b) refused verbally, then opened the door completely, and told the officers he would sue them for entering. Sgt. Castillo and other officers entered the apartment and briefly looked through the bedroom, bathroom, living room, and kitchen. Sgt. Castillo testified that he opened the refrigerator in the kitchen because he believed a person may have fit inside. § 87(2)(b) took photos of all the officers' shields. The officers then exited the apartment (Board Reviews 11 and 13).

PO Castillo initially testified that he did not recall this incident. Upon being shown Sgt. Castillo's BWC footage of this incident, he recalled responding to § 87(2)(b). He identified himself in the footage as opening one of § 87(2)(b) kitchen drawers, but did not recall doing this and did not know why he would have done so (Board Review 12).

The Event Information for Event #§ 87(2)(b) shows that officers responded to an assault in progress. A caller from § 87(2)(b) reported that a female was being assaulted and thrown into walls. The female was reportedly screaming and telling someone to "get off [her]." The caller described the perpetrator as a black male of medium height, slim build, and a brown complexion, and first stated that the assault was occurring in § 87(2)(b) then in § 87(2)(b).

§ 87(2)(g)

§ 87(2)(b) Absent the search warrant requirement in *Payton v. New York*, 445 U.S. 573 (Board Review 17), officers may enter and search an area without a warrant if there is an emergency exception where they (1) have reasonable grounds to believe there is an emergency at hand and an immediate need for their assistance in the protection of life or property, (2) are not primarily motivated by an intent to arrest and seize evidence, and (3) have a reasonable basis, approximating probable cause, to associate the emergency with the area to be entered, *People v. Doll* 21 N.Y. 3d 665 (Board Review 15).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Sergeant Oliver Castillo failed to provide § 87(2)(b) with a business card.**

Sgt. Castillo testified that he started to write down his name and shield number for § 87(2)(b) but since § 87(2)(b) took photos of the officers' badge numbers, and BWC documented that Sgt. Castillo also verbally identified himself by name, he opted not to provide it to him.

Officers are required to offer business cards to civilians at the conclusion of home searches that do not result in an arrest or summons, NYC Administrative Code 14-174 (Board Review 27).

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Sgt. Castillo has been a member-of-service for 11 years and has been a subject in four prior CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- PO Castillo has been a member-of-service for four years and this is the first CCRB complaint in which he has been a subject.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- As of February 24, 2020, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards to this incident (Board Review 28).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 1

Investigator: Inv. Sebastian Saavedra \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: Mgr. Joy Almeyda \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date